

## APPENDIX A

### HIGHLIGHTS OF THE EL MALPAIS LEGISLATION (P. L. 100-225)

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#### Title I - National Monument

##### **Establishment of Monument**

Section 101      Designates a 114,000-acre National Monument to protect highly significant natural and cultural resources.

##### **Transfer**

Section 103      Transfers management of certain lands from the Cibola National Forest to the Department of the Interior to be managed as part of the National Monument.

##### **Management**

Section 103      National Monument will be managed according to laws of the National Park System. Management purposes of the monument are to preserve scenery and natural, historic, and cultural resources and to provide public understanding and enjoyment of these resources.

##### **Permits**

Section 104      Grazing privileges within the monument will end on January 1, 1998.

#### Title II - Masau Trail [now known as Pueblo Heritage Trail]

##### **Designation of Trail**

Section 201      Authorizes the National Park Service (NPS) to designate a vehicular tour route linking prehistoric and historic cultural sites in New Mexico and eastern Arizona.

##### **Areas Included**

Section 202      Initially the trail will link El Malpais National Monument, El Morro National Monument, Chaco Culture National Historical Park, Aztec Ruins National Monument, Canyon de Chelly National Monument, Pecos National Monument, and Gila Cliff Dwellings National Monument. Additional trail segments may be designated later by the Secretary of the Interior.

##### **Information and Interpretation**

Section 203      The Secretary may enter into cooperative agreements to help interpret natural and cultural resources of such sites. The Secretary, in cooperation with other public, Indian, and non-profit entities, must prepare and distribute information about sites along the trail.

##### **Markers**

Section 204      The trail will be marked appropriately. Signs and other informational devices may be accepted as donations.

(Senate Report)      The NPS should work closely with the States of New Mexico and Arizona in establishing the trail markers, sharing the costs. If petroglyphs on the Albuquerque West Mesa are added to the National Park System, they should be incorporated into the Masau Trail.

## Title III - El Malpais National Conservation Area

### **Establishment of Area**

Section 301      Establishes a 262,690-acre National Conservation Area (NCA) to be managed by the Bureau of Land Management (BLM) to protect natural, cultural, scenic, and wilderness resources of national importance.

(Senate Report)    The BLM is to erect a ranger station along NM State Road 117.

### **Management**

Section 302(a)    The NCA shall be managed according to applicable laws.

(Senate Report)    Resource management plans referred to in this act are those required by the Federal Land Policy and Management Act (FLPMA).

Section 302(b)    Hunting and trapping are to be permitted in the conservation area, subject to limitations of the State of New Mexico.

Section 302(c)    Commercial wood collection is prohibited.

Section 302(d)    Livestock grazing will continue.

## Title IV - Wilderness

### **Designation of Wilderness**

Section 401      Designates the 60,000-acre Cebolla Wilderness and the 38,210-acre West Malpais Wilderness.

### **Management**

Section 402      Wilderness is to be managed in accordance with the Wilderness Act of 1964, and grazing is allowed to continue.

## Title V - General Provisions

### **Management Plans**

Section 501(a)    Separate General Management Plans will be prepared for the monument and conservation area within 3 years. Each must include an interpretation and public education plan, a public facilities plan (providing for both a visitor center and a multi-agency orientation center), natural and cultural resource plans, and a wildlife management plan.

(Senate Report)    Cultural resource plans will include wilderness. Appropriate forms of archeological research, including identification, excavation, stabilization, conservation, and protection of cultural resource sites will be permitted. Short-term disturbances resulting from these activities will be rehabilitated. Long-term scientific use of archeological values will conform to the concept that wilderness is devoted to recreational, scenic, scientific, educational, conservational, and historical use.

(House Report)    Wilderness is to be included in the cultural resource plans, which will provide for active identification and management of historic properties, including protection of archeological values from looting, vandalism, and artifact collection. Appropriate forms of research and related activities should be permitted in wilderness, including investigation, identification, stabilization, conservation, and protection of cultural resource sites from deterioration by natural forces or vandalism. Research should be conducted so as to minimize impacts, and short-term disturbances resulting from such activities must be rehabilitated. The BLM should consult with the Advisory Council on Historic Preservation and the State Historic Preservation Officer to establish guidelines for

identification, management, and research of historic properties within wilderness. This guidance is consistent with the Wilderness Act. The need to prevent looting and vandalism is stressed, and public support for protection, recognition, and interpretation is noted.

- Section 501(b) A 17,500-acre Wilderness Study Area is established. Wilderness potential of this area will be protected until completion of the General Management Plan, which shall include a review of the wilderness suitability of these lands and a recommendation on this subject.
- Section 501(c) All roadless areas within the National Monument (except potential development areas) will be reviewed for wilderness suitability, with a recommendation made in the General Management Plan. Pending submission of the recommendation, managers will protect wilderness potential of the areas.
- (Senate Report) Protection of wilderness values does not preclude improving access and providing interpretive and recreational facilities in areas currently penetrated by roads.
- (Senate and House Reports) The NPS should use the BLM wilderness inventory policy definition of "road" in determining which lands are "roadless." "Potential development areas" may be included in the wilderness suitability study at the discretion of the agency.
- (Senate Report) The Department of the Interior is urged to enter into a cooperative agreement with the Department of Defense to locate and clear military ordnance in the monument and conservation area.
- (House Report) The Secretary of the Interior is expected to consult with the Secretary of Defense concerning the nature and extent of unexploded ordnance in the monument and conservation area, and the cost and feasibility of removing these materials or protecting the public from them.

#### **Acquisitions**

- Section 502 The Secretary of the Interior is authorized to acquire lands and interests within the monument and conservation area. Lands owned by the State of New Mexico may be acquired only by exchange. The Congress expects acquisition of subsurface interests to be completed within three years.
- (Senate and House Reports) Authority to acquire lands and minerals may extend beyond three years. Indian trust lands may not be condemned, and Indian lands should only be acquired with the consent of the Indian owners.

#### **State Exchanges**

- Section 503(a) Upon request by the State of New Mexico, the Secretary is required to exchange State land within the monument or conservation area for equal value parcels elsewhere in the State.
- Section 503(b) Within 6 months, the Secretary will identify for the State Land Commissioner those State lands within the monument and conservation area and those Federal lands that are available for transfer to the State of New Mexico in exchange. Such listing is to be updated annually. Congress expects the land exchanges to be completed within two years.
- (Senate and House Reports) Authority for State exchange may extend beyond two years.

#### **Mineral Exchanges**

- Section 504 The Secretary is directed to exchange approximately 15,000 acres of Federal mineral rights identified in the Act for approximately 15,000 acres of mineral rights owned by Santa Fe Pacific Industries within the conservation area. Such exchange is to be on the basis of equal value, consistent with FLPMA, and the Secretary must determine that the exchange is in the public interest. The exchange is to be completed within three years.
- (Senate and House Reports) Authority for the exchange may extend beyond three years.

(House Report) The Committee believes that this exchange is in the public interest and intends these provisions to facilitate the exchange, consistent with FLPMA.

#### **Acoma Pueblo Exchanges**

Section 505 Congress intends that the NPS and the BLM be sensitive to needs of Native American groups.  
(Senate and Boundaries of the National Monument and Cebolla Wilderness were drawn specifically to  
House Reports) allow continued road access to Acoma deeded land. Acoma grazing may continue for ten years within the monument and indefinitely within the conservation area.

Section 505(a) The Secretary is authorized, at the request of Acoma Pueblo, to exchange certain lands within the conservation area or other lands of equal value outside the conservation area for Acoma trust lands west of NM 117. Lands exchanged to the Acoma shall be held in trust while the acquired lands will be incorporated into the monument.

Section 505(b) Consistent with law and existing land use plans, BLM lands within New Mexico shall be available for exchange.

Section 505(c) Certain identified lands within the conservation area are available for exchange, provided Acoma Pueblo requests exchange within one year. Otherwise these public lands are incorporated into the conservation area and certain areas will be included in the Cebolla Wilderness.

(Senate Report) The NPS and the BLM should pursue exchanges before purchasing these lands. All lands within the conservation area need not be consolidated into Federal ownership. Power of condemnation will be used to acquire lands in the conservation area only where there is an imminent threat to the purposes for which the conservation area was established. Both agencies should work cooperatively with private land owners and range users to minimize construction of permanent fences and to maintain existing access to private property, where possible.

(House Report) The one-year deadline for the Acoma exchange involving conservation area lands is intended to minimize potential interference with proper management of the conservation area and wilderness. Additional proposals for transfer of lands in these areas to the Pueblo of Acoma are not considered necessary or desirable.

#### **Exchanges and Acquisitions Generally; Withdrawal**

Section 506(a) Generally, exchanges should be on the basis of equal value. However, the Secretary may make exceptions if they are in the public interest.

Section 506(b) "Public lands" has the same meaning as in FLPMA.

Section 506(c) Lands or interests acquired within the monument or conservation area after enactment of this legislation shall be incorporated into the monument or conservation area.

Section 506(d) No Federal lands within the monument or conservation area shall be transferred out of Federal ownership or placed in trust, except as provided for in this Act. Subject to valid existing rights, Federal lands within the monument and conservation area are withdrawn from all forms of entry, appropriation, or disposal and from location, entry, and patent under the mining laws. They are closed to mineral and geothermal leasing.

Section 506(e) Acreages in the Act are approximate; referenced maps take precedence over acreage figures.

Section 506(f) The Secretary is authorized to accept land contiguous to Pecos National Monument by donation.

Section 506(g) Capulin Mountain National Monument is redesignated Capulin Volcano National Monument, and other administrative details of records and boundaries of this monument are enacted.

### **Access**

- Section 507(a) The Secretary is required to permit access for continued traditional cultural and religious use of the monument and conservation area by Native Americans.
- Section 507(b) The Secretary shall request the recommendations of Acoma Pueblo and other Indian tribes about methods of ensuring access, enhancing the privacy of traditional cultural and religious activities, and protecting traditional cultural and religious sites.
- Section 507(c) The Secretary may temporarily close to public use specific, limited portions of the conservation area and monument to protect the privacy of the religious activities of Indian people. Written notification of such action must be provided to the Energy and Natural Resources Committee of the Senate, and to the Interior and Insular Affairs Committee of the House, within seven days after initiation of any such closure.
- Section 507(d) An advisory committee including representatives of Acoma, Zuni, other appropriate Indian tribes and other persons or groups may be established to advise the Secretary on these matters.
- (Senate and House Reports) The Secretary must consult appropriate Indian tribes and their traditional cultural and religious authorities during preparation of the General Management Plans to determine what the traditional cultural and religious uses have been.

### **Cooperation**

- Section 508 The Secretary is authorized and encouraged to cooperate with other agencies and groups to further the interpretation of prehistoric civilizations of New Mexico and eastern Arizona. Specifically, the Secretary is encouraged to cooperate in development of a multi-agency orientation center near Grants, New Mexico.

### **Water Rights**

- Section 509 Water rights are reserved for the minimum amount of water needed to carry out the purposes for which the monument, conservation area, and wildernesses were established. This clause shall not affect any existing water right or pending application, and this subsection does not require the NPS to drill wells. Nothing in this action establishes a precedent with regard to future designations, nor does it affect interpretation of any other Act or designation.
- (Senate Report) The Committee reiterates that reservation of water applies only to this Act and should have no bearing on interpretation of any other reserved rights doctrine. The water rights reservation is junior to those of all existing wells and pending applications. No conflicts are anticipated between the Federal government's need for water and any valid existing or pending rights.

### **Authorization**

- Section 510 This section authorizes \$16,500,000 for purposes of the Act: \$10,000,000 for land acquisition in the monument, \$1,000,000 for development in the monument, \$4,000,000 for land acquisition in the conservation area, \$1,000,000 for development in the conservation area, and \$500,000 for planning and developing the Masau Trail.